



United States Department of the Interior

NATIONAL PARK SERVICE

1849 C Street, N.W.

Washington, D.C. 20240

IN REPLY REFER TO:

JUL 8 2010

Re: **239 South Limestone St., Lexington, Kentucky**
Project Number: **9417**

Dear :

My review of your appeal of the decision of Technical Preservation Services (TPS), denying certification of the rehabilitation of the property cited above is concluded. The appeal was initiated and conducted in accordance with Department of the Interior regulations (36 CFR Part 67) governing certifications for Federal tax incentives for historic preservation as specified in the Internal Revenue Code. I thank you and for speaking with me via conference call on May 27, 2010, and for providing a detailed account of the project.

After careful review of the complete record for this project, I have determined that the rehabilitation of 239 South Limestone Street is consistent with the historic character of the property and the historic district in which it is located, and that the project meets the Secretary of the Interior's Standards for Rehabilitation. Therefore, the denial issued on May 11, 2009, by TPS is hereby reversed.

Built in 1907, 239 South Limestone Street is located in the South Hill Historic District. It was certified as contributing to the significance of the district on April 29, 2002. In its review, TPS found that that rehabilitation of this "certified historic structure" did not meet the Standards for Rehabilitation owing to the removal of the historic staircase.

After careful review of the complete project record, I agree with TPS that the historic staircase was a character-defining feature of 239 South Limestone Street, as with nearly every historic building. Reaching from the first floor to the attic at the third, they provided the sole means of vertical circulation through the building. An additional feature of the historic staircase was a band of north-facing windows at the third floor level that brought natural light down into the middle of the house. Most of the photographs on file with the Kentucky Heritage Council and the NPS showing the building prior to rehabilitation were taken by the previous owners for the application they submitted in 2002. Those photographs show that the configuration of the historic staircase had been substantially modified over time to accommodate changes in use. The modifications included a wall constructed between the entrance vestibule and the staircase, cutting off the historic progression of spaces from the vestibule to the main hallway and stairs. In addition, the stairs from the second floor to the third were enclosed with solid walls, blocking natural light from the band of windows at the top of the stairs. I accept your statement that the building had suffered considerable vandalism and deterioration by 2005 when you acquired it. At that time, you stated, the newel, balusters, and railing, and most of the treads, were missing from the stair run reaching from the first floor to the second, rendering it unusable. The previously modified stairs from the second floor to the third remained, however.

I have determined that the cumulative impact of the modifications and vandalism had destroyed the physical integrity of the historic staircase, and that its historic character had been severely compromised by the walls constructed to separate and enclose the stairs. I find that the extensive loss of fabric, finishes, and spatial characteristics, of the stairs left virtually nothing – other than its location and alignment – to preserve. Thus I disagree with TPS that the project contravenes Standard 5, which states, “*Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.*”

Furthermore, although I agree with TPS that moving the stairs from its historic location is an inappropriate treatment, I disagree that the relocation of the stairs causes the project to fail to meet Standard 2. Standard 2 states, “*The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.*” In this instance, despite relocating the stairs from its historic location, I find that the overall impact of the rehabilitation on 239 South Limestone Street has retained and preserved the historic character of the property. Accordingly, I hereby reverse the TPS decision of May 9, 2009, to deny certification of the rehabilitation.

Although I am reversing the National Park Service's denial of certification, the project will not become a certified rehabilitation eligible for the tax incentives until it is completed and so designated. Please fill out the enclosed Request for Certification of Completed Work and submit it to Technical Preservation Services, National Park Service, attention Michael Auer. Should you have any questions concerning procedures for final certification, please contact Mr. Auer of that office

As Department of the Interior regulations state, my decision is the final administrative decision regarding rehabilitation certification. A copy of this decision will be provided to the Internal Revenue Service. Questions concerning specific tax consequences of this decision or interpretations of the Internal Revenue Code should be addressed to the appropriate office of the Internal Revenue Service.

Sincerely,

A handwritten signature in black ink, appearing to read "John A. Burns", with a long, sweeping horizontal line extending to the right.

John A. Burns, FAIA
Chief Appeals Officer
Cultural Resources

cc: SHPO-KY
IRS